

## M e m o r a n d u m

Date : February 29, 2000

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To : William J. Keese, Chairman and Presiding Member      File:      Part 2 Schedule.Doc  
Robert A. Laurie, Commissioner and Associate Member

From :      California Energy Commission -      Richard K. Buell  
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Subject:      **THREE MOUNTAIN POWER PROJECT ~ SCHEDULE FOR THE  
FINAL STAFF ASSESSMENT PART 2**

Since the Three Mountain Power Project Committee issued its February 11, 2000 ***Notice of Evidentiary Hearings and Procedures***, staff has become aware of information that makes it impractical to publish its Final Staff Assessment (FSA) Part<sup>2</sup> on March 17, 2000. This information was summarized in the February 28, 2000 letter from Mr. Martin J. McFadden, and discussed below. Although staff agrees with the applicant in many respects, we are less optimistic regarding the schedule for soil & water resources and biological resources. We are also concerned about the sequence for staff to publish its FSA in advance of other parties filing their testimony. We feel that this approach potentially disadvantages staff in the proceedings. Because of these differences, we are recommending a different schedule than that proposed by the applicant, although the final decision could occur by the date suggested by the applicant. These issues are discussed below.

### **AIR QUALITY**

On February 4, 2000, the Shasta County Air Quality Management District (the District) received comments from a number of parties on the Preliminary Determination of Compliance (PDOC). The most significant comments received relate to the District's Best Available Control Technology (BACT) analysis. This will require the District to evaluate alternative control technologies (e.g., SCONOX). To complete this evaluation, the District has asked the applicant for additional information. The applicant believes that the soonest that the District would be able to issue a Final Determination of Compliance (FDOC) would be in 60 days (i.e., May 8, 2000)<sup>1</sup>. Staff would require 21 days to incorporate the FDOC findings and conditions in its FSA Part 2. This would mean the soonest staff could prepare its FSA Part 2 would be May 26, 2000.

### **WATER RESOURCES**

On February 22, 2000, the applicant filed its responses to staff's data requests 97 through 114. In these responses, the applicant indicated that it was considering alternative methods (i.e., zero discharge systems) to dispose of the wastewater

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<sup>1</sup> The February 28, 2000 letter from Mr. McFadden stated the applicant expects a 60 day delay in the issuance of the FDOC from March 7, 2000. If the District is required to reissue a PDOC, staff believes that an additional 60 days would be added to the schedule.

generated by the project. The applicant had previously proposed percolation ponds to dispose of the wastewater. Staff understands that the applicant will be filing additional information to identify an alternative method of wastewater disposal, and will forward this information, on February 28, 2000, to the Central Valley Regional Water Quality Control Board (CVRWQCB). As is the normal practice, the CVRWQCB will consider this change a new application, and will conduct a 30-day data adequacy review. Staff will also require time to review the new information to determine whether the information is complete. The CVRWQCB and staff are likely to have data requests related to this project amendment, and to the water supply study provided on February 22, 2000.

Once the CVRWQCB has received all the information it needs to conduct its analyses, it will require a minimum of thirty days to provide its preliminary recommendation on proposed conditions for approving the project. Staff will require these preliminary conditions before issuing its FSA Part 2 for water resources. In the February 28, 2000 letter from Mr. McFadden, the applicant suggested a 45-day delay in the soil and water resources FSA. Based on the discussion above, staff believes that 45 days would not be enough time to issue its FSA. We believe that a schedule that parallels the schedule for air quality would more likely be accurate (e.g., FSA for soil and water resources could be published on May 26, 2000).

## **BIOLOGICAL RESOURCES**

Resolution of biological resource issues is dependent on resolution of water resource issues. Therefore, staff does not believe it is practical to issue an FSA for biological resources prior to May 26, 2000 (see above). In addition, U.S. Fish and Wildlife Service (USFWS) has determined that a consultation will be required for the project. This consultation would be a Section 7 consultation under the Endangered Species Act with the U.S. Environmental Protection Agency acting as lead agency. Such a consultation will normally require at least 135 days. However, USFWS requires a final project description. Any change in the project description would restart the 135-day clock. Staff recommends that the applicant begin this work as soon as possible to avoid any further delays in the project schedule.

## **ALTERNATIVES**

Pursuant to CEQA, the alternatives analysis is an integral part of the discussion of those impacts which are potentially significant. In the context of the Three Mountain project, these are the issues addressed in Part 2 of the FSA--air quality, soil and water resources, and biological resources. Thus, in the context of this proceeding, the testimony and hearings on alternatives should be scheduled to coincide with the other Part 2 subject areas.

## **SCHEDULE**

Staff believes that the minimum slip in the schedule will likely be 90 days for all FSA Part 2 issues (air quality, water resources, biological issues, and alternatives). However, staff proposes to file monthly status reports with the Committee. If more or

less time is required to prepare the FSA Part 2, staff will be able to advise the Committee in advance.

The schedule proposed by the applicant shows that staff would file the FSA Part 2, and then other parties would file their testimony 2 weeks later, and hearings would be conducted approximately 10 days later. Staff believes this proposal disadvantages staff because it does not have the same amount of time to review the testimony of other parties, and is precluded the opportunity to file rebuttal testimony. To address these disadvantages, staff proposes that all parties file testimony at the same time, and that all parties have the opportunity to file written rebuttal testimony prior to the hearings. Staff's proposal results in the same overall time between filing the FSA and conducting hearings, which is equitable to all the parties. The following is staff's suggested schedule for the balance of the project.

**Staff's Suggested Schedule for the Three Mountain Power Project**

<b>DATE</b>	<b>EVENT</b>
22-Feb-00	Parties file testimony and Errata on FSA Part 1 Issues
22-Feb-00	Applicant Responses to Water Resources Data Requests 97 through 114
28-Feb-00	Applicant provides water resources information to CVRWQCB
<b>7-Mar-00</b>	<b>1<sup>st</sup> Hearing</b>
<b>21-Mar-00</b>	<b>2nd Hearing</b>
28-Mar-00	Parties File Status Report #1 On Part 2 FSA Issues
28-Apr-00	Parties File Status Report #2 On Part 2 FSA Issues
8-May-00	APCD files Final Determination of Compliance
18-May-00	Second PHC
26-May-00	File FSA Part 2 -Air Quality, Alternatives and Soil&Water and Biological Resources
26-May-00	Applicant submits signed options or contracts for purchase emission reduction credits
26-May-00	Parties File Testimony on Air Quality, Alternatives, and Soil&Water and Biological Resources
14-Jun-00	All Parties File Rebuttal Testimony
<b>21-Jun-00</b>	<b>Start Hearings on Part 2 FSA issues</b>
<b>30-Jun-00</b>	<b>End Hearings on the Part 2 FSA issues</b>
31-Jul-00	Committee Issues Presiding Members Proposed Decision (PMPD)
<b>21-Aug-00</b>	<b>Committee conducts hearing on PMPD</b>
30-Aug-00	End of PMPD comment period for agencies and others
30-Aug-00	File staff comments on PMPD
13-Sep-00	Committee Issues Revised PMPD
20-Sep-00	State and federal wildlife agencies issue permits or biological opinions
20-Sep-00	Commission Hearing on Revised PMPD
20-Sep-00	Adopt Decision

RKB:rkb

cc: Three Mountain POS List  
Michael Kussow  
CVRWQCB  
USFWS